

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**KING PHARMACEUTICALS, INC., et al.,**

**Plaintiffs,**

**-against-**

**EON LABS, INC.,**

**Defendant.**  
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**MEMORANDUM AND  
ORDER**

**04-CV-5540 (DGT)**

**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

In a letter-application filed under seal on October 8, 2008 (“10/8/08 Letter”), plaintiff King Pharmaceuticals, Inc. (“King”) seeks an order compelling defendant Eon Labs, Inc. (“Eon”) to produce documents concerning an investigation by the Food and Drug Administration (“FDA”) of a manufacturing facility of Sandoz, Inc. (“Sandoz”), which acquired Eon during the pendency of this lawsuit. Eon opposes King’s application. See Docket Entry (“D.E.”) #217.

The Court denies King’s motion on relevance grounds. King does not dispute that the FDA investigation is unrelated to Eon’s metaxalone ANDA or its metaxalone product. Instead, King posits that if, as a result of the investigation, Eon is unable to obtain FDA approval of its metaxalone ANDA and/or to otherwise bring its metaxalone product to market, “then Eon is wasting the Court’s and the parties’ time by continuing to litigate this action.”<sup>1</sup> See 10/8/08 Letter at 2; see also D.E. #220 at 1. However, if such an event were to occur, King could then move to dismiss Eon’s counterclaims as moot. In the meantime, the documents sought have no bearing on the issues before this Court.

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<sup>1</sup> King overlooks the fact that it, and not Eon, first initiated this lawsuit.

Equally unavailing is King's suggestion that the FDA investigation "call[s] into question the reliability and credibility of the information . . . in Eon's ANDA." See 10/8/08 Letter at 2; see also D.E. #220 at 1. As noted by Eon, King fails to explain the connection between the investigation and Eon's metaxalone ANDA. See D.E. #217 at 2. The Court declines to allow King to engage in a fishing expedition in the hopes of uncovering information with which to embarrass Eon and/or Sandoz.

For the foregoing reasons, King's October 8, 2008 application is denied.

**SO ORDERED.**

**Dated: Brooklyn, New York  
December 1, 2008**

**ROANNE L. MANN  
UNITED STATES MAGISTRATE JUDGE**